

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GABRIEL MESA,

Defendant.

Case No. 2:13-cr-00418-APG-VCF

**ORDER**

**Motion for Reconsideration of  
Order of Detention - 66**

This matter is before the Court on Defendant Gabriel Mesa's Motion for Reconsideration of Order of Detention (#66), filed on September 28, 2015. The Government filed its Response (#69) on October 15, 2015, and Defendant filed his Reply (#74) on October 21, 2015. Defendant also filed a Supplement to his Motion for Reconsideration (#70) on October 20, 2015.

**BACKGROUND AND DISCUSSION**

The indictment in this case charges Defendant Gabriel Mesa with four counts of possession of a firearm by a convicted felon in violation of 18 U.S.C. §§ 922(g) and 924(a)(2) and one count of possession of a firearm with a removed serial number in violation of 26 U.S.C. §§ 5842, 5861(h) and 5871. *Indictment (#1)*. Defendant's initial appearance and arraignment occurred on November 22, 2013 at which time the Court ordered that he be detained pending trial as a serious risk of nonappearance and a serious risk of danger to the community. *Order of Detention (#11)*. The order of detention recited Defendant's prior criminal history record as grounds for the Court's finding that Defendant poses a serious risk of nonappearance and danger to the community. The Pretrial Services Report also cited information from the Government's case agent that at the time of the arrest, Defendant was asked multiple times to exit his residence and that he refused to do so. Defendant eventually exited the residence after 45 minutes and was taken into custody. The Court

1 has listened to the recording of the detention hearing and confirmed that the Government argued  
2 that Defendant's conduct immediately prior to his surrender, as well as his alleged involvement in  
3 the sale of firearms to undercover agents, supported his detention as a risk of nonappearance and a  
4 danger to the community. Although not reflected in the written order of detention, in its oral ruling  
5 from the bench the Court based its decision to detain Defendant on this information as well as the  
6 information regarding Defendant's prior criminal history.

7 Defendant previously filed a motion to reopen his detention hearing on March 21, 2014  
8 which the Court denied on May 2, 2014. *See Motion (#18) and Minutes of Proceeding (#34).*

9 18 U.S.C. § 3142(f) states that the detention hearing may be reopened at any time before  
10 trial if the judicial officer finds that information exists that was not known to the movant at the time  
11 of the hearing and that has a material bearing on the issue of whether there are conditions of release  
12 that will reasonably assure the appearance of the person as required and the safety of the  
13 community. In support of his motion to reopen the detention hearing, Defendant states that while  
14 in custody he has completed classes to address violence and has participated in classes that have  
15 helped him overcome his substance abuse issues. While the Court commends the Defendant for  
16 addressing these issues, the Court finds that Defendant has not presented new and material  
17 information that would justify reopening the detention hearing.

18 The Court notes that Defendant's pretrial detention is approaching two years which raises a  
19 concern regarding prolonged detention. A review of the docket, however, indicates that the  
20 continuances of the trial dates in this case have been due to changes of defense counsel—Defendant  
21 is now represented by his third attorney— and have been requested by Defendant's counsel.

22 Accordingly,

23 **IT IS HEREBY ORDERED** that Defendant's Motion for Reconsideration of Order of  
24 Detention (#66) is **denied**.

25 DATED this 10th day of November 2015.

26   
27 GEORGE FOLEY, JR.  
28 United States Magistrate Judge